

1 Thomas M. Moroughan

2 put in a demand, Tony. I ask for
3 digital copies of those photos in their
4 digital form. Keeping sure to secure
5 all metadata that would be part of the
6 digital file. In other words, a
7 printout of the photograph will not
8 satisfy our request. We ask for the
9 digital file itself; whether it be on a
10 memory stick, USB stick, or a disk, a
11 DVD, that's sufficient to provide, if we
12 have the access to the metadata as part
13 of that digital file.

14 ---

15 (Request for Production)

16 ---

17 MR. GRANDINETTE: Okay.

18 MR. MITCHELL: Those photographs
19 were taken by your camera, correct?
20 Which is a digital camera?

21 THE WITNESS: Everything.

22 MR. GRANDINETTE: Did you take
23 those photographs or did somebody else?

24 THE WITNESS: The two at the
25 hospital, of the taxi from the hospital

1 Thomas M. Moroughan

2 scene, was taken by someone else.

3 MR. GRANDINETTE: Okay.

4 BY MR. SCHROEDER:

5 Q And by -- on your phone, or did
6 he send them to you?

7 A I believe they were sent to me.

8 Q You have them saved now on your
9 phone?

10 A Yes. Saved on my memory card.

11 MR. MITCHELL: And the ones of
12 the wound you took yourself with your
13 camera?

14 THE WITNESS: Yes.

15 BY MR. SCHROEDER:

16 Q The ones of the cab after it was
17 released to your boss from impound, did you
18 take those?

19 A Yes. On my phone. It was a
20 different phone back then, but...

21 Q Tell me your date of birth.

22 A [REDACTED] 84.

23 Q Have you ever been married?

24 A No.

25 Q Do you have any biological

Thomas M. Moroughan

children?

A Yes.

Q How many?

A Three.

Q What are their names and ages?

A [REDACTED] ^ chk splg. She's 10.

Q Where does she live?

A In Florida.

Q What is her mother's name?

A Jessica.

Q Last name?

A C [REDACTED] ^ check.

[REDACTED]. She's 5. Her mother's
name is Shawna [REDACTED].

Q S-H-A-W-N-A?

A Yes.

Q [REDACTED] [REDACTED]

A Yes.

Q Where does she live?

A Tennessee.

And then [REDACTED]. She's -- he is
21 months.

Q Did you say [REDACTED]? That's a
girl?

1 Thomas M. Moroughan

2 A [REDACTED]. A boy. He is
3 21 months. And that's with Kristie Mondo.

4 Q What's [REDACTED]'s date of birth?

5 A [REDACTED]/13.

6 Q Have you ever previously been
7 convicted of a crime?

8 A Yes.

9 Q How many times?

10 A Twice.

11 Q What were you convicted of?

12 A I was convicted of attempted
13 criminal contempt. I violated an order of
14 protection.

15 Q What state was that?

16 A New York.

17 Q Who had an order of protection
18 against you?

19 A Jessica Cushing ^ .

20 Q Here in New York?

21 A No. The order of protection was
22 actually in Manatee County, Florida.

23 Q That's where it was issued?

24 A Yes.

25 Q Were you and Jessica Cushing ^

1 Thomas M. Moroughan

2 living down there in Florida?

3 A Yes.

4 Q Why did Jessica Cushing ^ get an
5 order of protection against you?

6 A Me and her had broken up and I
7 was really upset. And I left -- I left her
8 a few voice mails, just trying to beg her to
9 give me a another chance. She'd asked me not
10 to call her anymore. And I still did. So she
11 went and got a restraining order for
12 harassment.

13 Q Did you ever make any threats on
14 any of those phone calls?

15 A No.

16 Q There was an order of protection
17 issued?

18 A Yes.

19 Q How did you violate the order?

20 A Me and her got back together. We
21 moved back up to New York. We were living on
22 Vets Highway. I don't remember what town it
23 was. It might have been Holbrook. And we got
24 into an argument. Police were called. And
25 they found out about the order of protection

1 Thomas M. Moroughan

2 from Florida and I was arrested.

3 Q You wound up pleading guilty?

4 A Yes.

5 Q Was that in Suffolk County?

6 A Yes.

7 Q Do you remember what year that
8 was?

9 A I want to say '06. '06.

10 Q Do you still speak with Jessica
11 Cushing ^ ?

12 A No.

13 Q When was the last time you spoke
14 with her?

15 A I personally speaking to her?

16 Q Yes.

17 A Years ago.

18 Q How about it [REDACTED] ^ ; do you
19 see [REDACTED] ^ ?

20 A I haven't seen her since she
21 was 3.

22 Q How about [REDACTED] and Shawna
23 Atkins? Is Shawna living in Tennessee now?

24 A Yes.

25 Q Did you live in Tennessee with

Thomas M. Moroughan

her?

A I lived in Tennessee, yes.

Q With her?

A No, we didn't live together.

Q Is Miss Atkins from New York or
Tennessee?

A Tennessee.

Q Did you meet down there?

A Yes.

Q When was the last time you spoke
with Shawna Atkins?

A A few months ago.

Q How about [REDACTED]; do you still
see [REDACTED]?

A No.

Q When was the last time you saw
[REDACTED]?

A Never.

Q Why were you talking to Shawna
Atkins?

A I think I asked -- I think I was
asking how [REDACTED] was doing.

Q Did you ever have any domestic
issues with Shawna Atkins?

1 Thomas M. Moroughan

2 A No.

3 Q I just want to talk to you a
4 little bit about your relationship with Risco
5 Lewis.

6 A Okay.

7 Q When was the last time you spoke
8 with Ms. Lewis?

9 A Last week.

10 Q When was the last time you saw
11 Ms. Lewis?

12 A November, I believe. Roughly
13 November.

14 Q You didn't see her during the
15 Christmas holiday or anything?

16 A No.

17 Q What did you speak about last
18 week with Ms. Lewis?

19 A When I was going to be able to
20 bring Dominic over.

21 Q Did you speak about anything
22 else?

23 A Not that I can recall.

24 How you doing.

25 Q When was the last time you spoke

1 Thomas M. Moroughan

2 with Ms. Lewis about this matter, this case?

3 MR. GRANDINETTE: Objection to
4 form. Presumes a fact not in evidence.
5 But answer.

6 A That I personally? I couldn't
7 even tell you. Years. She doesn't like to
8 talk about it at all.

9 Q You've been to Risco's house?

10 A Yes.

11 Q When was the last time you were
12 there?

13 A Maybe August, September.

14 Q And the last time Ms. Lewis was
15 at your house?

16 A I don't even know. I don't know
17 if she's ever been to my house.

18 Q You don't recall her ever being
19 at your house?

20 A No.

21 Q Now, earlier you had mentioned
22 that -- well, as a result of this incident on
23 February 27, 2011 you were charged with
24 certain crimes?

25 A Yes.

1 Thomas M. Moroughan

2 Q And what were you charged with?

3 A Reckless endangerment and

4 Assault 2.

5 Q And your attorney on that matter?

6 A William Petrillo.

7 Q And how was it that you came to
8 have William Petrillo as your attorney?

9 A Recommendation from -- I believe
10 actually Risco called him.

11 Q And when did he become your
12 attorney?

13 A February 27, 2011.

14 Q And for this civil matter your
15 attorney is Mr. Grandinette?

16 A Yes.

17 Q He has been present with you at
18 any 50H's or your deposition here today?

19 A Yes.

20 Q Who referred you to
21 Mr. Grandinette?

22 A Actually I was looking online,
23 and -- for civil rights lawyers. And three
24 names popped up that were very common:
25 Mr. Grandinette of course, Fred Brewington,

1 Thomas M. Moroughan
2 and Bruce Barket.

3 Those were the three that I was
4 looking at.

5 Bruce Barket didn't have a lot in
6 the civil rights part of it. And Tony had a
7 lot with like false confessions and stuff like
8 that that I saw.

9 And -- I mean, I did ask Bill,
10 you know, what he thought of the three lawyers
11 that, you know -- the last three that I was
12 thinking of, and he said that they were all
13 really good and that either one of them would
14 do a really good job.

15 So I met with Tony and I ended up
16 choosing Tony.

17 Q Did Ms. Lewis make any
18 recommendation as to who you should have as
19 your lawyer?

20 A Civil rights? No.

21 Q But your original -- the original
22 way that you came to Mr. Grandinette was just
23 going on the internet?

24 A Yes. It was research.

25 Q Did you ask Ms. Lewis who she

Thomas M. Moroughan

might recommend before going on the internet?

A No.

Q Did you ask Mr. Petrillo who he might recommend, before going on the internet?

A No. He just told me, you know, research, you know, Long Island lawyers. Civil rights.

Q Have you read any newspaper accounts with respect to this incident?

A Yeah.

Q And in what papers?

A Newsday mainly. Actually, I think that's the only one.

Q Have you seen pictures of yourself in Newsday?

A Yes.

Q Have you seen pictures of other people related to this case in Newsday?

A Yes.

Q About how many articles have you read in Newsday related to the case?

A Probably around ten.

Q You mentioned some people that you had contact with at Huntington Hospital.

1 Thomas M. Moroughan

2 You mentioned some Suffolk County detectives?

3 A Yes.

4 Q You indicated that the written
5 statement that we've discussed as Suffolk
6 County Exhibit C today you met with two
7 Suffolk detectives?

8 A Yes.

9 Q Did you come to learn their
10 names?

11 A Yes.

12 Q What were their names?

13 A Detective Tavares and Detective
14 Leser.

15 Q And the person that you've
16 testified as shooting you, did you learn his
17 identity?

18 A Yes.

19 Q What is his name?

20 A Former Police Officer Anthony
21 DiLeonardo.

22 Q When you say "former Police
23 Officer," you received information that he is
24 no longer a police officer in Nassau County?

25 A From what the newspaper

Thomas M. Moroughan

said, yes.

Q What did you read about that?

A Just that he was fired.

Q As a result of this incident?

A I'm imagining that it would be a result of this incident. But --

Q I don't want you to imagine.

Did you read anything in the article that indicated that he was fired for something other than this incident?

A No, not other than this incident, no.

Q And the other -- the person who you say exited the blue Acura, did you learn his identity?

A Yes.

Q Who did you learn him to be?

A Police Officer Edward Bienz ["Bynz"], Bienz ["Beenz"]. I don't know how to pronounce the last name.^ chk me please

Q Have you seen photos of him in that newspaper?

A Yes.

Q Have you seen photos of

1 Thomas M. Moroughan

2 Mr. DiLeonardo?

3 A Yes.

4 Q There came a time that you
5 brought a lawsuit against Deputy Chief of
6 Patrol John Hunter?

7 A Yes.

8 Q Fair to say that you've never met
9 Deputy Chief of Patrol John Hunter?

10 A Not that I can recall, no.

11 Q You've seen a picture of him in
12 the newspaper, right?

13 A I don't remember, no. I don't
14 think so.

15 ---

16 (Defendants' JH Exhibit A,
17 photograph, was marked for
18 identification)

19 (Defendants' JH Exhibit B,
20 photograph, was marked for
21 identification)

22 (Defendants' JH Exhibit C,
23 photograph, was marked for
24 identification)

25 (Defendants' JH Exhibit D,

1 Thomas M. Moroughan
2 photograph, was marked for
3 identification)

4 (Defendants' JH Exhibit E,
5 photograph, was marked for
6 identification)

7 (Defendants' JH Exhibit F,
8 photograph, was marked for
9 identification)

10 (Defendants' JH Exhibit G,
11 photograph, was marked for
12 identification)

13 ---

14 BY MR. SCHROEDER:

15 Q You had a -- have you seen some
16 photographs in this case of some of the
17 different people who you've sued?

18 A Just the people, whoever was like
19 in the paper.

20 Q Other than seeing them in the
21 newspaper, have you seen pictures?

22 A No.

23 Q Take a look at what has been
24 marked as A. Just tell me if you recognize
25 the person depicted in A.

1 Thomas M. Moroughan

2 MR. GRANDINETTE: Just for the
3 record, the -- there is a piece of
4 cardboard across the bottom of the
5 photograph. I am assuming that is
6 right now just to hide the identify of
7 the person in the photo?

8 MR. SCHROEDER: That's correct.

9 A Anthony DiLeonardo.

10 Q Is that the way Mr. DiLeonardo
11 appeared on February 27th, 2011?

12 A No.

13 Q How did look different on that
14 day?

15 A His hair was a little longer.

16 MR. GRANDINETTE: Can I just look
17 at A for one second, please.

18 MR. SCHROEDER: Sure.

19 Can I keep moving?

20 MR. MITCHELL: Sure. ^ Who said
21 this?

22 BY MR. SCHROEDER:

23 Q This is B. Tell me if you
24 recognize that person.

25 MR. GRANDINETTE: So I don't

Thomas M. Moroughan

interrupt you each time, I'm going to assume that the piece of cardboard will be there to cover the name plate?

MR. SCHROEDER: Correct. That is the only purpose.

A Edward Bienz.

Q Have you seen pictures of him in the newspaper?

A Yes. That's actually the picture I saw of him in the newspaper.

Q Just so there's no drama here, you now are seeing A and B with nothing covering the photos, right?

A Yes.

Q How about with respect to Edward Bienz; does he look -- does he look different than he looked --

A He looks just about the same.

Q As February 27th, 2011?

A Yes, sir.

Q Take a look at C. Do you recognize that person?

A No.

Q You don't recognize -- have you

Thomas M. Moroughan

ever seen a picture of this person in the newspaper?

A I believe so, yes.

Q This is D. Do you recognize that person?

A Yes.

Q Who do you recognize that to be?

A Don't remember the name. I've definitely seen him in the newspapers.

Q Fair to say you did not have any personal contact with this person on February 27, 2011?

A Me personally, no.

Q You did not -- you did not meet that person on February 27th, 2011, is that correct?

A Correct.

Q When you say "me personally" --

A He kind of looks like the guy who was talking to the Suffolk detectives outside my room.

Q You're not certain?

A Not certain.

Q This is E. Do you recognize that

Thomas M. Moroughan

person?

A No.

Q Did you have any contact with --
personal contact with that person?

A No.

Q You indicated that, with respect
to D, you said you are not certain if this is
the person you saw with -- talking to Suffolk
detectives outside your room.

Whoever it was that you saw
talking to the detectives outside the room, is
it fair to say you didn't hear the
conversation?

A Yes, I didn't hear the
conversation.

Q This is F. Do you recognize the
person depicted in this photo?

A He looks familiar. I couldn't
tell you.

Q Do you have any recollection of
meeting that person on February 27, 2011?

A No.

Q Do you know the person's name?

A No.

1 Thomas M. Moroughan

2 Q This is G. Again, I'm using the
3 cardboard at this point on the photograph.

4 Do you recognize that person?

5 A Yes.

6 Q How do you recognize that person?

7 A He was the -- he was the Nassau
8 guy with the -- I want to say he was the
9 Nassau guy in uniform that I saw speaking to
10 Meaney.

11 Q Did you have any personal
12 conversation with the person depicted in this
13 photo?

14 A No.

15 Q Did you hear what this person was
16 talking to Officer Meaney about?

17 A No.

18 MR. CLARKE: What exhibit is
19 that?

20 MR. GRANDINETTE: G. Defendants'
21 JH G.

22 MR. CLARKE: You don't know that
23 person's name, in the photograph?

24 THE WITNESS: No.

25 MR. GRANDINETTE: At an

1 Thomas M. Moroughan

2 appropriate time I'd just like to get
3 copies of those, front and back.

4 MR. SCHROEDER: No problem.

5 BY MR. SCHROEDER:

6 Q You had mentioned you saw some
7 photos out at the scene of the shooting.

8 Where did those photos come from?

9 A I believe they were from the
10 forensic report.

11 Q Do you remember how many photos
12 there were?

13 A No. A few. Five, six maybe.

14 Q Can you give me an idea what you
15 recall seeing in those photos?

16 A The entry points of the bullets
17 entering the windshield, the angle.

18 The gun that was on the floor of
19 the back seat.

20 Q Of the cab?

21 A Yes.

22 Blood -- the blood on the
23 doorsill.

24 Q Have you ever seen any pictures
25 of the inside of the cab -- of the Prius cab?

1 Thomas M. Moroughan

2 A What do you mean? Like where on
3 the inside?

4 Q Anywhere. Did you see any photos
5 of the interior of the cab?

6 A Yeah, I saw where the bullet
7 entered the backseat.

8 Q Yes.

9 A Blood on the steering wheel.
10 Blood on the -- and then I saw pictures of the
11 glass on the ground at the scene.

12 Q I want to talk to you about the
13 people you've discussed this matter with.

14 I don't want to talk to you at
15 all about any conversations you've had with
16 your attorneys.

17 A Okay.

18 Q Okay.

19 Who do you recall speaking about
20 this case with?

21 A Well, my fiancée of course,
22 Kristie Mondo.

23 Q When did she become your fiancée?

24 A Around Christmas of that year.
25 December of 2011.

Thomas M. Moroughan

Q When you say -- women are sensitive about these things.

When you say around then, do you remember the day you proposed to your fiancée?

A I want to say around the 20th --

Q Of December?

A -- of December.

Because I did it in front of the tree in the city.

Q So you've been engaged for a little over three years now?

A Yes.

Q Have you set a date for the wedding?

A No.

Q Have you ever been engaged before?

A Yes. Once.

Q Who were you engaged to?

A Jessica Cushing.

Q Okay.

So you mentioned Kristie Mondo.

Who else?

A What do you mean?

1 Thomas M. Moroughan

2 Q Who else have you spoken to about
3 this case?

4 A Sylvia Freed, my therapist.

5 Q Right.

6 Risco Lewis?

7 A Yeah, we've spoken. But never
8 really in detail about anything. But yeah,
9 I've spoken to her about it.

10 Q Okay.

11 A I mean -- let me ask a question.
12 Is it okay if I ask a question about this
13 question?

14 Q First tell me -- you can ask a
15 question at the end.

16 First tell me who you remember
17 speaking to about this case.

18 A That's what I'm trying to say.
19 Speaking at all? Or in detail? Or just
20 saying, you know, this --

21 Q Why don't you distinguish for me,
22 who have you discussed the case in detail
23 with?

24 A In detail, with just those
25 people. I really don't like to talk about it.

1 Thomas M. Moroughan

2 I mean, I've had people: You're
3 the cab driver that was on the news? Yes.

4 You know? But it's never been a
5 conversation of this is what happened or
6 anything else. I have no interest in talking
7 about it. It bothers me. Point blank. It's
8 a thing of, if I didn't have to -- if I didn't
9 have to talk about it here, I wouldn't even
10 want to.

11 Q Do you have any friends?

12 A Yes.

13 Q Have you ever discussed it with
14 any of your friends?

15 A No.

16 Q You never told any of your
17 friends what happened, harrowing experience?

18 A No.

19 Q Could you show us that tattoo on
20 your arm again, please?

21 A Sure.

22 ---

23 (The Witness complies.)^

24 ---

25 BY MR. SCHROEDER:

Thomas M. Moroughan

Q I was far away before. I didn't know I was looking at a tattoo. I just want to talk a little about it now.

Tell me -- point to the wound itself.

A Right there (indicating).

Q Okay. In the middle of that circle?

A Yes.

MR. GRANDINETTE: Just for the record, the witness is using his middle finger to point to a circle on his left forearm.

BY MR. SCHROEDER:

Q And from that circle is there red coming down?

A Yes.

Q Now tell me, what is tattoo and what is wound?

A The coloring is tattoo.

Q What coloring is tattoo?

A Red.

Q Now, there is sort of some darkened color around the circle. Is some of

Thomas M. Moroughan

that the tattoo?

A Yes.

Q So the wound itself is the same color as the rest of your skin?

A It is a little bit lighter.

Q Is there less hair in that spot than the rest of your forearm?

A Yes.

Q There are some -- there are like two red lines coming from the bottom of the -- what you described as the wound down towards your hand. One is longer than the other.

That is both tattoo?

A Yes.

Q And then there are some red dots up on top of the circle. Is that also tattoo?

A Yes.

Q And then some of the darker color around the wound is tattoo?

A Yes.

Q Describe for me what tattoo you have your chest?

A Red color lines coming down.

Q Same tattoo artist did the chest

Thomas M. Moroughan

as the arm?

A Yes.

Q At the same time?

A Yes.

Q And when do you think you had the tattoo done?

A August or September of 2011.

Q Why did you get the tattoos?

A I want to say I did it to cover up the scar. I had people, you know, that -- I was at a pool party. I had somebody ask me what the scar was on my chest. For something I didn't want to talk about. So instead people are like cool tattoo, instead of what a nasty scar.

Q I want to --

A When I looked in the mirror as well, it bothered me. It gave me a bad memory, where I figured if I thought I made almost like a piece of art or something out of it.

Like, it made it so it didn't bother me as much looking in the mirror or looking at it.

1 Thomas M. Moroughan

2 Q Has anybody asked you about the
3 tattoos?

4 A No.

5 Q Nobody ever said -- like in other
6 words, it's not an eagle or it doesn't say
7 "Mom." Has anybody asked you what the tattoos
8 are for?

9 A No. I had somebody actually say
10 I was bleeding, but...

11 Q What did you tell them?

12 A I told them no, it was a tattoo.
13 I don't -- I don't go into detail.

14 Q With your attorney's permission
15 I'd like to see the tattoo on your chest that
16 is part of the wound that you're alleging in
17 this incident.

18 MR. GRANDINETTE: Sure.

19 MR. SCHROEDER: Pardon me. I
20 want to come closer to it.

21 ---

22 (The Witness complies.)^

23 ---

24 BY MR. SCHROEDER:

25 Q Now, I'm going to describe this.

1 Thomas M. Moroughan

2 You can help me if I'm wrong.

3 But this would be above and to
4 the left of your right nipple; is that fair to
5 say?

6 A Yes.

7 Q Approximately three inches from
8 your right nipple?

9 And I am talking about the wound.

10 A Yes.

11 Q Now, the wound portion, is it
12 fair to say that that's the circular part,
13 lighter circular part that is largely
14 surrounded by red?

15 A Yes.

16 Q And all the red areas in and
17 around that, is that all tattoo?

18 A Yes.

19 Q And some of this slightly darker
20 pigment around the circle, that is also
21 tattoo?

22 A Yes.

23 Q Thank you.

24 MR. GRANDINETTE: We will provide
25 you with photographs of both scars.

1 Thomas M. Moroughan

2 MR. SCHROEDER: If we need better
3 photos, fine. But that should suffice.

4 Thank you, Mr. Grandinette.

5 BY MR. SCHROEDER:

6 Q I want to make sure I understand
7 what you were saying about the tattoos and the
8 scar.

9 Prior to getting the tattoos,
10 nobody said to you that's a cool tattoo; is
11 that right? Like nobody mistook the scar for
12 a tattoo, do I have that right?

13 A No, nobody mistook the scar for a
14 tattoo.

15 Q I'm going to show you what's been
16 marked as Exhibit -- JH Exhibit D again.

17 The person depicted in that
18 photo, you have no recollection of ever
19 speaking to him, is that correct?

20 A Correct.

21 Q Fair to say you've never heard
22 him speak before?

23 A Hear his voice? No.

24 Q After February 7, 2011, did
25 anybody from the Suffolk County District

1 Thomas M. Moroughan
2 Attorney's Office ask to interview you with
3 respect to this incident?

4 MR. GRANDINETTE: I'm sorry. Did
5 you say February 7th?

6 Q February 27th.

7 After the incident of
8 February 27, 2011, did anybody at the Suffolk
9 County District Attorney's Office ask to
10 interview you?

11 A Not until three years ago.

12 Q And when do you think you
13 remember that being? February 2014, is that
14 what you're saying?

15 A No. It was like, I want to
16 say September -- September of '13. Like
17 two-and-a-half years later.

18 Q Who requested to interview you?

19 A I don't even know.

20 Q You believe it was from the
21 Suffolk County DA's Office?

22 A Yes.

23 Q Did you agree to be interviewed
24 by them?

25 A No.

1 Thomas M. Moroughan

2 Q Why not?

3 MR. GRANDINETTE: I will just
4 object to the form. He doesn't know who
5 asked to interview him.

6 MR. SCHROEDER: I'll accept the
7 objection, but I just don't want a
8 speaking objection.

9 MR. GRANDINETTE: The only other
10 thing is, I think that you are delving
11 into the realm of attorney/client
12 privilege between Mr. Moroughan and his
13 criminal attorney.

14 But, if you can -- Frank, can you
15 repeat the question? I'm sorry.

16 BY MR. SCHROEDER:

17 Q Why didn't you speak to somebody
18 at the Suffolk County DA's Office?

19 A I didn't trust them.

20 Q Has anybody from the Nassau
21 County DA's Office ever requested to interview
22 you?

23 A No that I'm aware of, no.

24 Q Has anybody from any federal
25 prosecutor's office ever requested to

1 Thomas M. Moroughan

2 interview you?

3 A No.

4 Q Have you ever received any type
5 of subpoena to testify before any grand jury?

6 A No.

7 Q What was your income in 2011?

8 A Couldn't even tell you.

9 Q Did you file a tax return?

10 A No.

11 Q Did you file a tax return for
12 2010?

13 A No.

14 Q When was the last time you filed
15 a tax return?

16 A 2013.

17 Q Prior to 2013 when had you last
18 filed a tax return? Had you ever?

19 A Probably 2005.

20 Q In 2011 were you working on the
21 books?

22 A No.

23 Q You did not declare any income?

24 MR. GRANDINETTE: Object to the
25 form.

1 Thomas M. Moroughan

2 He didn't file a return.

3 Q Did you declare any income
4 anywhere?

5 A No.

6 Q And in 2010 did you declare any
7 income anywhere?

8 A No.

9 Q Were you working off the books
10 then?

11 A Yes.

12 Q How about 2012, did you declare
13 any income anywhere?

14 A No.

15 Q Were you working off the books?

16 A Yes.

17 Q 2013 were you working off the
18 books?

19 A No. I declared.

20 Q Where were you working in 2013?

21 A Klis Brothers.

22 Q How long did you work at Klis
23 Brothers?

24 A Six months.

25 Q Is that the income you declared?

1 Thomas M. Moroughan

2 A Yes.

3 Q So, did you receive a W-2 from
4 them?

5 A Yes.

6 Q From the taxicab companies you've
7 worked for, have you ever received a W-2 from
8 them?

9 A No.

10 Q When you were working for Dobro,
11 your first day of work for Dobro was when?

12 A I believe December 20th or
13 December 21st. I mean February 20th or
14 February 21st of 2011.

15 Q And how would you keep track of
16 your fares when you were working as a cab
17 driver for Dobro?

18 A Trip sheet.

19 Q And what does -- what information
20 is put on a trip sheet?

21 A Pickup location, drop-off
22 location, fare, and total fare.

23 Q Okay. Between February 20th and
24 February 27, 2011, how many different vehicles
25 did you drive for Dobro?

1 Thomas M. Moroughan

2 A Two.

3 Q What were they?

4 A Both a Toyota Prius.

5 Q I kind of missed it, but earlier
6 you were testifying about some kind of
7 accident that you were in. Was that in a
8 Dobro cab?

9 A Yes.

10 Q Was that in a Prius?

11 A Yes. But it wasn't actually --
12 that wasn't a taxi. It was one of their cars
13 that was owned by them. It wasn't on the road
14 yet as a taxi. It had regular plates. And I
15 was -- I was actually getting lunch for the
16 owner.

17 Q So you weren't driving a cab at
18 the time?

19 A I wasn't driving a taxi at the
20 time, no.

21 Q The cab that you were driving on
22 February 26th and 27th of 2011, did that have
23 any kind of meter in it?

24 A No.

25 Q So this trip sheet, this is just

1 Thomas M. Moroughan

2 a piece of paper?

3 A Yes.

4 Q The way you got paid was by you
5 split the fare with the company?

6 A Yes.

7 Q And on top of that you would get
8 tips?

9 A Yes.

10 Q The tips were for you; you didn't
11 have to split the tips?

12 A No. But I had to pay for the
13 gas.

14 Q We will get to that.

15 MR. SCHROEDER: Move to strike
16 the portion that was unresponsive.

17 ---

18 (Motion to Strike)^

19 ---

20 BY MR. SCHROEDER:

21 Q The tip portion when you drove a
22 cab, that was all money for your pocket,
23 right?

24 A Yes.

25 Q You didn't have to split that?

1 Thomas M. Moroughan

2 A Right.

3 Q You would get dispatched to get a
4 fare. Somebody would call you from Dobro to
5 tell you go pick up a fare at such and such a
6 location?

7 A Yes.

8 Q Now, when you would -- what's the
9 other way you would get fares?

10 A I could either get them from the
11 train, people coming off the train at the
12 train station --

13 Q Okay.

14 A -- or people who flag us down.

15 Q And were you expected to write
16 those onto your trip sheet?

17 A Yes.

18 Q That was kind of on the honor
19 system?

20 A Yes.

21 Q You indicated the number of fares
22 that you had on February 26th and 27th, 2011.
23 Have you ever seen any documentation
24 supporting that? Did you ever see the trip
25 sheets from that day?

1 Thomas M. Moroughan

2 A No.

3 Q When we spoke earlier and you
4 were telling me about your convictions you
5 mentioned a violation of an order of
6 protection. Did you say you had a second
7 conviction?

8 A Yes.

9 Q What was that for?

10 A I wrote a check that didn't
11 clear.

12 Q What did you plead guilty to?

13 A Passing a worthless check.

14 Q Where was that?

15 A Tennessee.

16 Q Were you charged with larceny,
17 petit larceny?

18 A No.

19 Q When you say "passing a worthless
20 check," you wrote out a check to get some type
21 of goods?

22 A I wrote a check to a supermarket.

23 Q And at the time you were aware
24 that you did not have sufficient funds to
25 cover the check?

1 Thomas M. Moroughan

2 A At the time it was written?

3 Q Right.

4 A Yes.

5 Q That's correct?

6 A Yes.

7 Q Did you ultimately have to pay
8 back the supermarket?

9 A Yes.

10 Can I say something?

11 Q First tell me, did you have to
12 pay back the supermarket?

13 A Yes.

14 Q Was that part of your plea,
15 paying restitution?

16 A Yes.

17 Q How much was it for?

18 A \$160.

19 Q What year was that?

20 A '09. '08 or '09.

21 Q What county was that?

22 A McMinn. McMinn County.

23 Q Tennessee?

24 A Yes.

25 Q Did you also -- is there also a

1 Thomas M. Moroughan

2 warrant for you in Tennessee that is open now?

3 A I'm not a hundred percent sure.

4 Q Were you ever aware of a warrant
5 open for you in Tennessee?

6 A Yes.

7 Q Did you ever go and clear the
8 warrant?

9

10 (Direction Not To Answer; Witness
11 invokes Fifth Amendment Right.)^

12

13 MR. GRANDINETTE: I'm going to
14 object.

15 Frank, I'm going to ask him to
16 invoke the Fifth on any questions about
17 this issue.

18 MR. SCHROEDER: Okay.

19 MR. CLARKE: Whether he went to
20 Tennessee to clear the warrant?

21 MR. GRANDINETTE: Yes. Any
22 issues regarding this open matter.

23 MR. CLARKE: I know you're the
24 expert on the Fifth Amendment, but I
25 don't know that that is an appropriate

1 Thomas M. Moroughan
2 application for that particular
3 question. It doesn't go to his guilt.
4 It goes to whether or not he has done
5 anything to clear up the warrant.

6 MR. GRANDINETTE: I am directing
7 him not to answer any questions
8 regarding that open issue.

9 MR. SCHROEDER: Okay.

10 MR. CLARKE: You're saying it's
11 an open issue. He hasn't said it is an
12 open issue.

13 MR. GRANDINETTE: Chris, you
14 understand my objection, sir?

15 MR. CLARKE: I don't.

16 MR. GRANDINETTE: Okay.

17 MR. CLARKE: Candidly, I don't.
18 Is it an open issue or not?

19 MR. GRANDINETTE: I've directed
20 my client not to answer this question
21 which is being conducted by
22 Mr. Schroeder and not you.

23 MR. CLARKE: There was a broader
24 scope allowed when he was questioned
25 pursuant to 50H.

1 Thomas M. Moroughan

2 MR. GRANDINETTE: There was
3 questions about this in his 50H. Those
4 were answered. I allowed questions up
5 to this point. And now at this point
6 I'm directing my client not to answer.

7 MR. CLARKE: Okay.

8 MR. SCHROEDER: Let me finish my
9 question, Tony, and then feel free to
10 object.

11 BY MR. SCHROEDER:

12 Q I'm asking you if you have an
13 open warrant in Tennessee.

14 Would you like to assert your
15 Fifth Amendment privilege?

16 A Yes.

17 ---

18 (Direction Not To Answer; Witness
19 invokes Fifth Amendment Right.)^

20 ---

21 BY MR. SCHROEDER:

22 Q Did you commit check fraud in
23 Tennessee, related to a warrant?

24 A I plead the Fifth.

25 ---

1 Thomas M. Moroughan

2 (Direction Not To Answer; Witness

3 invokes Fifth Amendment Right.)^

4 ---

5 BY MR. SCHROEDER:

6 Q With respect to what you
7 described a little while ago as writing a --
8 passing a worthless check, that you were
9 convicted of, right?

10 A I pled guilty.

11 Q After pleading guilty to that
12 charge were you ever arrested again in
13 Tennessee?

14 A No.

15 Q When you wrote the check that you
16 pled guilty for -- you wrote that check --
17 after writing the check did there come a time
18 you were arrested for passing a worthless
19 check?

20 A Yes.

21 Q How many times have you been
22 arrested in Tennessee?

23 A Just that once.

24 Q The first time you ever drove a
25 Toyota Prius was in and around February 20th

Thomas M. Moroughan

or 21, 2011?

A Yes, sir.

Q The last time you drove a Toyota Prius was when?

A February 27th, 2011.

Q That was the Dobro taxi?

A Yes.

Q Have you ever driven a hybrid vehicle of any kind since February 27th, 2011?

A Yes.

Q What hybrid?

A It was a Honda Civic.

Q Have you ever driven any type of Toyota Prius since February 27th, 2011?

A No.

Q Not limited to a cab, is what I mean.

A No.

Q The Toyota Prius, to start that car you have to have a key; is that correct?

A Yes.

Q The key does not have to go into an ignition slot; is that right?

A Correct.

1 Thomas M. Moroughan

2 Q As long as that key is, for
3 instance, inside the vehicle, that will be
4 sufficient to start the car?

5 A Yes.

6 Q Then you have to press a start
7 button?

8 A Yes.

9 Q Your foot has to be on the brake?

10 A Yes, sir.

11 Q To shift gears in the car your
12 foot has to be on the brake?

13 A Yes, sir.

14 Q The Toyota Prius has an electric
15 motor?

16 A It is a hybrid, so it has
17 electric and gas.

18 Q Okay. It has an electric motor?

19 A Yes.

20 Q It also has a gasoline engine?

21 A Yes.

22 Q When you would operate -- during
23 the time period that we're talking about in
24 and around February 20th to the 27th of 2011,
25 when you operated that Toyota Prius, it

1 Thomas M. Moroughan
2 operated with both motors, both electric and
3 gas?

4 A Yes.

5 ---

6 (Mr. Clarke exits deposition room.)^

7 ---

8 BY MR. SCHROEDER:

9 Q If you were at a stop -- you'd
10 been driving around for a while, you were at a
11 stop in the Toyota Prius, for instance at a
12 red light or a stop sign, and you stepped on
13 the gas pedal, would the gasoline engine
14 engage?

15 A I don't know.

16 Q Do you have any recollection of
17 whether it would engage or not when you
18 stepped on the gas pedal?

19 A I don't think I ever tried it, so
20 I have no recollection.

21 Q When you say you never tried it,
22 when you were driving the car -- for instance,
23 on February 27th, 2011 earlier you described
24 stopping at some red lights?

25 A Yes.

1 Thomas M. Moroughan

2 Q When you would stop at a red
3 light you would step on the brake, right?

4 A Yes.

5 Q Bring the car to a stop?

6 A Yes.

7 Q When you would step on the gas to
8 accelerate would the gasoline engine come on?

9 A No. Right away it was the
10 electric.

11 Q When you say "right away," what
12 does that mean?

13 A Up until about I believe it's
14 40 miles per hour, you run strictly electric.

15 Q Okay. So between 0 and 40 it was
16 solely electric?

17 A Yes.

18 Q How about if you were at a red
19 light and you just stepped on the gas to the
20 floor, would the gasoline engine engage?

21 A No idea.

22 Q You've never done that?

23 A No.

24 Q On February 27, 2011 did the --
25 the time period that you drove that car, did

1 Thomas M. Moroughan

2 the gasoline engine ever engage?

3 A I'm sure it did.

4 Q When would that be?

5 A I couldn't say for sure. When I
6 was leaving East Northport I was probably
7 doing 45, which would put me over the
8 40-miles-per-hour speed.

9 So, I mean, there was a few times
10 throughout the night where it left -- where it
11 turned on to gas.

12 Q So the only time that -- you're
13 saying the only time that the gas motor would
14 go on is if you went over 40 miles an hour?

15 A In the mode that I was in, yes.

16 Q Tell me about the mode that you
17 were in?

18 A The Econo mode. It gives you the
19 best gas mileage because it runs on the
20 electric engine, so you're at -- I think I
21 believe it's 40, 40 miles per hour. And then
22 it goes to gas. Or if the electric engine
23 dies it will -- it will go to gas to recharge
24 it.

25 Q How long would the car operate

Thomas M. Moroughan

solely on battery?

A No idea.

Q Well, was there any kind of gauge in the car to tell you?

A No. You don't even hear a difference.

Q When you, for instance -- does the Prius have a gas gauge?

A Yes.

Q Does it have a speedometer?

A Yes.

Q Does it have a gauge to tell you whether the engine is running either gas or electric?

A No, not that I can recall.

Q What other kind of modes are there on the Toyota Prius?

A Econo.

Q Was that a 2010?

A Yes.

Econo. There's Power.

Q Yes.

A I believe -- I forget the other one. The other one was like in between. It

Thomas M. Moroughan

was up to 20 miles per hour you'd be electric and then anything more than that was gas.

Supposed to be basically like a middle between the Power and the thing. I would always have it in Econo because I had to pay for gas, so it made sense that I would use the best gas mileage.

Q Tell me about Power mode. What is that?

A Straight gas.

Q What was the purpose of Power mode?

A Better power. Usually -- let's say you're getting onto the highway from a ramp. You might want to be able to have more power.

Q When did you get your driver's license? How old were you?

A 20.

Q How old were you --

A I'm sorry. 19.

Q How old were you on February 27, 2011?

A 26.

1 Thomas M. Moroughan

2 Q Okay. You've driven automatics?

3 A Yes.

4 Q You've driven stick shifts?

5 A Yes.

6 Q The Toyota Prius, in Econo mode,
7 which you described as electric, would you
8 describe that as a quick car, a slow car,
9 compared to the other cars you've driven?

10 A I mean, I don't think it was
11 anything different than a normal
12 four-cylinder, which it was. That's what it
13 was, a four-cylinder. I mean, I have driven
14 eight-cylinders, which of course they're going
15 to have more power than a four-cylinder either
16 way.

17 Q Was the Toyota Prius quicker when
18 you put it in Power mode, than Econo mode?

19 A It's a hard question to answer.

20 Q Do your best, based on your
21 experience.

22 A I've never put it on Power mode
23 around town. I only put it on Power mode
24 basically to be on the highway, and I wouldn't
25 use -- so it's really hard to say if it was

1 Thomas M. Moroughan

2 quicker.

3 I would imagine so, that it has
4 more power.

5 Q You're saying the only time
6 you've ever put Power mode on is if you're on
7 the highway?

8 A Yes.

9 Q Around town you would never touch
10 the Power mode to make the car quicker?

11 A No. I paid for the gas. I want
12 the best gas mileage.

13 Q How would you change the mode?

14 A There is three buttons.

15 ---

16 (Defendants' JH Exhibit H,
17 DESCRIPTION, was marked for
18 identification)

19 ---

20 BY MR. SCHROEDER:

21 Q Just take a look at what's been
22 marked as H, Mr. Moroughan. Get yourself
23 familiar with it.

24 A Okay.

25 Q Do you recognize that as a